



Exhibit E

October 7, 2020

Via e-mail at [msnyder@osmre.gov](mailto:msnyder@osmre.gov)

Mark Snyder  
Office of Surface Mining Reclamation and Enforcement  
710 Locust Street, Second Floor  
Knoxville, TN 37902

RE: Service of Notices of Violation

Dear Mr. Snyder:

It has been brought to my attention that OSMRE continues in its refusal to provide copies of violations to the Company's<sup>1</sup> onsite authorized representatives. This is contrary to (i) 30 CFR 843.14, (ii) 30 CFR 722.14 and (iii) OSMRE's own Directives<sup>2</sup>. According to Directive INE-8, Transmittal Number 173 dated May 19, 1983 (the "Directive"), "*30 CFR 843.14 (47 FR 35620, August 16, 1982) states that the inspector must give to the agent of the permittee at the coal mining operation a copy of the NOV or CO*" (emphasis added). The Directive goes on to state "*[i]f no such agent is available, the copy must be given to the individual who appears to be in charge or to an employee*" (emphasis added). Therefore, we request that OSMRE's authorized representative immediately begin complying with the regulations and provide a copy of the NOV or CO to the Company's designated agent on site.

I have been advised OSMRE takes the position that none of the workers onsite are "Designated Agents". This is a gross misinterpretation of the law by OSMRE. The regulations clearly state the notice is to be delivered to the "designated agent or to the individual who, based upon reasonable inquiry, appears to be in charge." The regulation goes on to state "If no such individual can be located at the site, a copy may be tendered to any individual at the site who appears to be an employee or agent of the person to whom the notice or order is issued".

OSMRE also takes the position the Company has not identified a designated agent since the designation of Mark Wooten. This simply is not true. Attached are email exchanges from July 2019 wherein a power of attorney was provided by the Company to OSMRE identifying Bill Johnson as an attorney-in-fact. Receipt of this power of attorney was acknowledged and accepted by OSMRE as identified in the attached email exchange.

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<sup>1</sup> For purposes of this letter Company shall mean National Coal, LLC, Premium Coal Company, Incorporated and S&H Mining, Inc.

<sup>2</sup> According to OSMRE's website (<https://www.osmre.gov/lrg/directives.shtm>) *[t]he Office of Surface Mining Reclamation and Enforcement policy directives are written communication provided in the form of instructions, manuals, notices, guides, policies, and procedures. These policy documents assist employees in effectively performing their jobs.*

For the avoidance of doubt, please be advised Travis Duncan is the Company's Designated Agent for all field activities taking place in Tennessee. Consistent with OSMRE regulations and directives, a copy of all notices should be delivered in person to Mr. Duncan. We request that duplicate copies of any such violations continue to be sent to 302 S. Jefferson Street, Roanoke, Virginia 24011. Additionally, we request OSMRE observe the power of attorney granted to Bill Johnson that was accepted and acknowledged by OSMRE in July of 2019.

I would be remiss if I did not address the apparent reasons why OSMRE would behave in the manner that it has. One would assume OSMRE's goals would be to achieve environmental compliance in a way that is the most efficient and compliant with law. However, OSMRE has done the complete opposite. Why not meet with the person onsite that is most familiar with equipment, manpower and permit requirements? Why not discuss these issues with the professional engineer who has been issued a power of attorney by the Company to address these matters? I can only assume OSMRE's actions are intended to be as malicious and cumbersome as they can possibly be to make compliance impossible for the Company.

As you know we have completed a tremendous amount of fieldwork in Tennessee over the past several months. We have accomplished the reissuance of NPDES permits by TDEC and have continued to address OSMRE violations as well. Just imagine what we could accomplish if OSMRE would work with us instead of against us.



Respectfully submitted,  
Stephen W. Ball  
Vice President and General Counsel

CC: Michael Castle (via email at [mcastle@osmre.gov](mailto:mcastle@osmre.gov))